

REMARKS

Claims 1-31 are pending in the present application. In the Office Action mailed March 3, 2006, the Examiner rejected claims 1-7, 9, 12-14 and 18-22 under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. (USP 6,221,012) in view of Jacobsen et al. (USP 6,160,478). The Examiner next rejected claim 8 under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., as applied to claim 1, and further in view of Fuchs et al (USP 5,788,646). Claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., as applied to claim 1, in further view of Ballantyne (USP 5,867,821), and further in further view of Official Notice. Claims 11 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., as applied to claims 1 and 18 above, and further in view of Gombrich (USP 4,857,716). Claims 15-17 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., as applied to claims 1 and 18 above, in view of Ballantyne. Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., as applied to claim 18, and further in view of Ballantyne, Official Notice, and Fuchs et al. Claims 26, 28, and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., and in further view of Fuchs et al. Claims 27 and 31 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al., Jacobsen et al., and Fuchs et al., as applied to claim 26, and further in view of Gombrich. Claim 30 is rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al., Jacobsen et al., and Fuchs et al., as applied to claim 26, and further in view of Ballantyne.

Applicant has amended claim 1 to positively call for “WLAN input” and “WLAN output”. The amendment has been made in light of the Examiner’s statement that a “WLAN” was not being positively claimed.

In rejecting claims 1-7, 9, 12-14, and 18-22, the Examiner has repudiated the earlier rejections thereof based on Maschke et al. alone and now has combined Maschke et al. with Jacobsen et al. to assert that the claimed subject matter is obvious. Specifically, the Examiner has now reached the conclusion, after several office actions and an appeal brief submitted by Applicant, that Maschke et al. does not disclose a wireless local area network (WLAN). In reopening prosecution, however, the Examiner has now concluded that Jacobsen et al. discloses a WLAN and that one skilled in the art would have been motivated

to modify the point-to-point wireless system of Maschke et al. with the system of Jacobsen et al.

Specifically, the Examiner has now asserted that Jacobsen et al. “discloses a system including a patient monitor linked to a WLAN for the transmission of patient data.” Office Action, March 3, 2006, p. 4. However, Jacobsen et al. fails to disclose “a WLAN within a medical care facility,” as called for in claim 1.

That is, Jacobsen et al. teaches a wireless patient monitoring system wherein “the means of communication between the monitoring unit 12 and the remote unit 16, indicated by line 20, may include radio frequency (RF) transmissions, cellular communications networks (e.g., both digital and analog, similar to those used in current pager technologies), telephone land lines, or other means of communication known in the art.” Col. 4, ll. 56-61. In this regard, Jacobsen et al. suggests two wireless forms of communication: RF transmissions and cellular telephony. One skilled in the art will readily appreciate that neither of those communication paradigms are, in and of themselves, WLANs. That is, RF communication can be and is often used for non-networked communications, i.e., point-to-point communication between devices. In other words, WLANs may use RF for communication but RF communication is not limited to WLAN applications. Therefore, Jacobsen et al.’s disclosure of RF based communications between patients and a healthcare provider is not a teaching of a WLAN, as claimed.

Additionally, the cellular telephony communication paradigm disclosed by Jacobsen et al. would not be considered a WLAN by one skilled in the art. Specifically, cellular telephony is one implementation of a cellular network that is commonly used for mobile phones and pagers. In this regard, a geographical region is divided into sections or cells. Each cell typically has a range to 0.25 to 20 or more miles. In operation, radio waves are used to transfer signals to and from other communication devices, e.g., mobile phones, PDAs, pagers, public telephone network, etc. Modern cellular communication is a digital communication and typically uses one of the following technologies: Global System for Mobile Communication (GSM), General Packet Radio Service (GPRS), Code Division Multiple Access (CDMA), Evolution-Data Optimized (EV-DO), Enhanced Data Rates for GSM Evolution (EDGE), 3GSM, Digital Enhanced Cordless Telecommunications (DECT), Digital AMPS (IS-136/TDMA), and Integrated Digital Enhanced Network (iDEN).

In contrast, WLANs generally communicate over the air in an unlicensed frequency band, such as the 2.4GHz band. In contrast, mobile phones of a cellular network conventionally operate around 1900 MHz. Additionally, LANs, and thus WLANs, by definition, are geographically limited data communication networks, e.g., 1 km radius. In contrast, cellular communication is for much larger networks, e.g., 0.25 to 25 miles or more.

Furthermore, Jacobsen et al. discloses that alert or physiological information “could be displayed on the pager-like remote unit 16 such that the person 18 responsible for monitoring could be at any location and receive information necessary to determine the person from whom the art signal was received.” Col. 5, ll. 21-24. The ability to receive information at “any” location is consistent with cellular-based communication networks that cover much larger geographical expanses than WLANs. In fact, Jacobsen et al. discloses that “the remote unit 100 and monitoring units 50 and 120 may employ existing cellular networks for communication purposes. As such, each of the units 100, 50, and 120 may act in a similar manner to cellular telephones.” Col. 7, ll. 50-53. Accordingly, it is clear to one skilled in the art that Jacobsen et al. suggests the use of the technology paradigm used for mobile phone communication to receive patient data – not a WLAN, as claimed.

It should also be noted that with respect to claim 1, the WLAN is within the medical care facility. One skilled in the art would readily appreciate that “existing cellular networks” are not constructed to be within a medical care facility. Similarly, existing cellular networks are not coupled to bedside patient monitors as called for in claim 18.

Therefore, the art of record fails to teach or suggest that called for in claims 1-7, 9, 12-14, and 18-22.

Regarding the rejection of claims 8, 10, 11, 15-17, and 23-25 under 35 U.S.C. §103, Applicant respectfully disagrees with the Examiner with respect to the art as applied, but in light of the above claims depending from what are believed otherwise allowable claims, Applicant does not believe additional remarks are necessary and therefore requests allowance of claims 8, 10, 11, 15-17, and 23-25 based on the chain of dependency.

Claims 26 and 28-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Maschke et al. and Jacobsen et al., in further view of Fuchs et al. With regards to the deficiencies in the combination of Maschke et al. and Fuchs et al., Applicant incorporates the relevant remarks previously presented in the appeal brief. In reopening prosecution, the Examiner has now also combined Jacobsen et al. As set forth above, however, Jacobsen et

al. does not teach or suggest a WLAN for communications between various electronic devices. Therefore, the modified rejection of claims 26 and 28-29 cannot be sustained as the art of record fails to teach or suggest each and every element called for in claims 26 and 28-29. Allowance thereof is therefore requested.

Regarding the rejection of claims 27 and 30-31 under 35 U.S.C. §103, Applicant respectfully disagrees with the Examiner with respect to the art as applied, but in light of the above claims depending from what are believed otherwise allowable claims, Applicant does not believe additional remarks are necessary and therefore requests allowance of claims 27 and 30-31 based on the chain of dependency.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-31.

Applicant notes that the Examiner has once again taken Official Notice on a number of occasions when proffering rejections to a number dependent claims. As such, Applicant incorporates the remarks provided in the previously filed appeal brief with respect to the inappropriateness of the Examiner's taking of Official Notice. Nonetheless, the claims to which Official Notice as applied are believed to be in condition for allowance based, at least, on the chain of dependency.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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